

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
MIDDLE DIVISION**

**JANE KISER,**

**Plaintiff,**

**V.**

**LIFE INSURANCE COMPANY OF  
NORTH AMERICA,**

**Defendant.**

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**CASE NO.** \_\_\_\_\_

## NOTICE OF REMOVAL

Pursuant to the provisions of 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Life Insurance Company of North America (“LINA” or “Defendant”), hereby removes this action to the United States District Court for the Northern District of Alabama, Middle Division, which is the federal judicial district embracing the Circuit Court of Etowah County, where this case was originally filed as Case No. 31-CV-2019-900133. As addressed below, removal of this action is proper pursuant to 28 U.S.C. § 1331, in that Plaintiff’s claims invoke the Court’s federal question jurisdiction under the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001, *et seq.* The grounds for removal are as follows:

1. Plaintiff commenced this civil action in the Circuit Court for Etowah County, Alabama, on February 26, 2019. A true and correct copy of all process and pleadings filed in the State Court Action as reflected on Alacourt are attached

hereto as Exhibit “A”.

2. The United States District Court for the Northern District of Alabama, Middle Division, is the federal judicial district embracing the Circuit Court of Etowah County, Alabama, where this suit was originally filed. Venue is therefore proper under 28 U.S.C. § 81(a)(6) and § 1441(a).

3. This action against Defendant could have been originally filed in this Court pursuant to 29 U.S.C. § 1132 in that Plaintiff seeks to recover ERISA benefits under an employee welfare benefit plan (the “Plan”) sponsored by Floyd Healthcare Management, Inc. dba Floyd Medical Center (“Floyd”). LINA insured and administered long-term disability (“LTD”) claims under the Plan during the relevant time period. While employed at Floyd, Plaintiff was a participant in the Plan.

4. Plaintiff alleges in her Complaint that she “has long term disability benefits through Defendant Life Insurance Company of North America.” Compl. at ¶ 2. Plaintiff further alleges, *inter alia*, that she is disabled and entitled to long-term disability benefits, which were terminated as of April 24, 2018. *Id.* at ¶¶ 1, 3 & 4. Plaintiff then expressly states an ERISA benefit claim pursuant to 29 U.S.C. § 1132. *Id.* at ¶ 8.

5. The District Courts of the United States are given original jurisdiction over civil actions under ERISA pursuant to 28 U.S.C. § 1331 without consideration

to the amount in controversy or the citizenship of the parties. Therefore, this action may be removed to the United States District Court for the Northern District of Alabama, Middle Division, pursuant to the provisions of 28 U.S.C. § 1441(a).

6. A copy of this Notice of Removal is being filed with the Clerk of the Circuit Court of Etowah County, Alabama, as provided by law, and written notice is being sent to Plaintiff's counsel.

7. LINA has not sought similar relief.

8. The prerequisites for removal under 28 U.S.C. § 1441 have been met.

9. The allegations of this Notice are true and correct and within the jurisdiction of the United States District Court for the Northern District of Alabama, and this cause is removable to the United States District Court for the Northern District of Alabama.

10. Should any question arise as to the propriety of the removal of this action, LINA respectfully requests the opportunity to submit a brief and present oral argument in support of its position that this cause is removable. *Sierminski v. Transouth Fin. Corp.*, 216 F.3d 945, 949 (11th Cir. 2000).

WHEREFORE, PREMISES CONSIDERED, Defendant Life Insurance Company of North America, desiring to remove this civil action to the United States District Court for the Northern District of Alabama, Middle Division, the district and division encompassing the county in which such civil action is

pending, prays that the filing of this Notice of Removal, the giving of written notice thereof to Plaintiff, and the filing of a copy of this Notice of Removal with the Clerk of the Circuit Court of Etowah County, Alabama, shall effect the removal of said civil action to this Honorable Court.

Respectfully submitted,

/s/ Grace R. Murphy

William B. Wahlheim, Jr.

Grace Robinson Murphy

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Company of North America*

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing has been served upon the following listed persons by placing a copy of the same in the United States mail, postage prepaid and properly addressed, this the 28th day of March, 2019:

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/s/ Grace R. Murphy  
OF COUNSEL